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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WISCONSIN
3 JOSHUA J. BELOW)
4 by his Guardian, DEBRA BELOW)
5 CHARLIE ELIZABETH BELOW, a) CASE NO. 3:15-cv-00529-wmc
6 minor by her Guardian ad Litem)
7 DANIEL A. ROTTIER, PATRICK)
8 JOSHUA BELOW, a minor by his)
9 Guardian ad Litem, DANIEL)
10 A. ROTTIER)
11)
12 Plaintiffs,)
13)
14 DEAN HEALTH PLAN, INC.)
15)
16 Involuntary Plaintiff,)
17)
18 v.)
19)
20 STAR BLUE BELOW-KOPF)
21)
22 Intervening Plaintiff,)
23)
24 v.)
25)
YOKOHAMA TIRE CORPORATION,)
ABC INSURANCE COMPANY,)
YOKOHAMA CORPORATION OF)
AMERICA, DEF INSURANCE COMPANY)
YOKOHAMA CORPORATION OF NORTH)
AMERICA, GHI INSURANCE COMPANY)
YOKOHAMA TIRE MANUFACTURING)
VIRGINIA, LLC., JKL INSURANCE)
COMPANY, YOKOHAMA RUBBER)
COMPANY, LTD., NMO INSURANCE)
COMPANY,)
DEFENDANTS)

ORAL DEPOSITION OF
BRIAN PIPER, Ph.D.
FEBRUARY 9, 2017

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<p>1 ORAL DEPOSITION of BRIAN D. PIPER, Ph.D. 2 produced as a witness at the instance of the Plaintiffs 3 and duly sworn, was taken in the above-styled and 4 numbered cause on the 9th day of February, 2017, from 5 3:17 p.m. to 3:26 p.m., before Rebecca Jones, Certified 6 Shorthand Reporter in and for the State of Texas, 7 reported by computerized stenotype machine, at Research 8 & Planning Consultants, 6300 La Calma Drive, Suite 170, 9 Austin, Texas 78752, pursuant to the Texas Rules of 10 Civil Procedure and the provisions stated on the record 11 or attached hereto. 12 13 ATKINSON-BAKER, INC., 14 AMERICA'S COURT REPORTERS (800) 288 3376 www.depo.com ABI FILE NO. AB00E84 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 2</p>	<p>1 I N D E X 2 ORAL DEPOSITION OF 3 BRIAN D. PIPER, PH.D. 4 Page 5 Appearances..... 3 6 BRIAN D. PIPER, PH.D. 7 Examination By Mr. Rottier..... 5 8 Signature..... 11 9 Reporter's Certificate..... 12-15 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 4</p>
<p>1 A P P E A R A N C E S 2 3 FOR THE PLAINTIFFS: 4 MR. DANIEL A. ROTTIER HABUSH HABUSH & ROTTIER, S.C. 5 150 E. Gilman Street, #2000 Madison, WI 53703 6 Telephone: 608.255.6663 Fax: 608.255.0745 7 E-mail: rottier@habush.com 8 9 FOR THE DEFENDANTS: 10 MR. JARED FLYNN JOHNSON TRENT 11 919 Milam, Suite 1700 Houston, Texas 77002 12 Telephone: 713.222.2323 Fax: 713.222.2226 E-mail: jflynn@johnsontrent.com 13 14 - and - 15 MR. JAMES KRIVA KASDORF LEWIS & SWIETLIK 16 One Park Plaza, 11270 West Park Place 5th Floor Milwaukee, WI 53224 17 Telephone: 414.577.4000 Fax: 414.577.4400 E-mail: jkriva@kasdorf.com 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 3</p>	<p>1 BRIAN D. PIPER, Ph.D., 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. ROTTIER: 5 Q. Would you state your full name, please? 6 A. My name is Brian Douglas Piper. 7 Q. Mr. Piper, you have been disclosed as an expert 8 by counsel for the Yokohama Defendants in the Below 9 case. Are you aware of that? 10 A. I didn't quite understand what you said. I 11 have been what? 12 Q. Disclosed as an expert -- 13 A. Okay. 14 Q. -- by counsel for the Yokohama Defendants in 15 the Below case. I assume you are aware of that? 16 A. Yes, I am. 17 Q. In that connection you co-authored a report 18 dated June 16, 2016; is that right? 19 A. I did. 20 Q. As I understand it, you hold a Ph.D. in 21 economics, which you obtained in 2012, correct? 22 A. That is correct. 23 Q. And you are employed by Research & Planning 24 Consultants, L.P., of Austin, Texas, correct? 25 A. That is also correct.</p> <p style="text-align: right;">Page 5</p>

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<p>1 Q. Why did you leave your position at Sam Houston 2 State University? 3 A. For the final two years I had been working at 4 Sam Houston State University, I was living in Austin and 5 commuting out to Huntsville and I was weary of that 6 commute and decided I wanted to find employment much 7 closer to home and so I left academia and entered 8 consulting. 9 Q. We only have a few questions. As I read the 10 report, you agree that a reasonable net rate of discount 11 for any future earning capacity lost would be 12 1.5 percent; is that right? 13 A. We found that to be within the range of what we 14 would call reasonable values and adopted it for the 15 purposes of our report. 16 Q. Okay. I'm not talking about "we," I'm talking 17 about you. 18 Is it your opinion that 1.5 percent is a 19 reasonable net rate of discount when applied to a future 20 impairment of earning capacity in the Below case? 21 A. I found it to be within the range of reasonable 22 values and adopted it for this report. 23 Q. I have a question about Figure 3 of your 24 report. It's the worklife probability. Would you look 25 at that, please?</p> <p style="text-align: right;">Page 6</p>	<p>1 A. No, I'm saying the opposite. That this table 2 is only dealing with those individuals who are still 3 alive in Figure 3. 4 Q. It is correct, then, in Figure 3 there is data 5 showing that people are able to work beyond 67, correct? 6 A. There is data indicating that those people who 7 are still alive, some fraction of them, are able to work 8 past age 67. 9 Q. Well, we know from Figure 2 that 83 percent of 10 the people are alive at age 67, correct? 11 A. 82.96 percent of the people who are alive at 12 age 38, are alive at age 67. 13 Q. Okay. And when does that hit 50 percent, if 14 you know? 15 A. I don't know the combination or the product of 16 those off the top of my head. 17 Q. Is that shown in the table that you cited, 18 Figure 2? 19 A. No. Again, it would be a combination of 20 tables. It would not be found in either Figure 2 or 21 Figure 3 alone. 22 Q. My question was: Does the reference you show 23 in Figure 2 continue on to show what percentage of 24 people who are alive at age 38, remain alive beyond 67? 25 A. Oh, yes, that table could have been continued,</p> <p style="text-align: right;">Page 8</p>
<p>1 A. I'm on Figure 3. 2 Q. If you look at the data sources that you cite, 3 to what age is it 50 percent or more likely that a 4 person would be able to work? 5 A. That question is not something I can directly 6 answer by looking at this because ability has two 7 components. What we're measuring here in Table 3 is the 8 ability of someone who we have already conditioned on 9 being alive. And so to answer your question would 10 involve combining information from more than one source. 11 Q. Well, does the source you cited in Figure 3 of 12 the report show probability of ability to work beyond 13 age 67? 14 A. It does but, again, that's conditioned on the 15 assumption that the individual is still alive, that 16 probability is not in this table, it is elsewhere. 17 Q. In Table 2? 18 A. Yes. 19 Q. Do the figures that you relied upon in Figure 3 20 already reflect the departure from the work community 21 for people who died prematurely? 22 A. No. 23 Q. So, for example, if we looked at probability of 24 able to work at age 40, you are saying that is already 25 factored out, those people who died, prior to age 40?</p> <p style="text-align: right;">Page 7</p>	<p>1 I believe, to age 100. 2 Q. And do you know when that table shows that 3 50 percent continue to survive, assuming they were alive 4 at age 38? 5 A. I do not know that off the top of my head, no. 6 Q. Okay. Is it correct that you have no 7 independent opinion as to whether or not Mr. Below has 8 an impairment of current earning capacity? 9 A. I do not have any vocational opinions on this 10 case and I would classify the characterization of his 11 earning capacity a vocational opinion. So I rely upon a 12 vocational expert but do not independently have an 13 opinion about that matter. 14 Q. Would it be correct that if you relied upon 15 Plaintiffs' expert, Mr. Schultz, your opinions would be 16 altered in terms of the present value of Mr. Below's 17 future impairment of earning capacity? 18 A. If I relied on any different source for a 19 vocational conclusion, if it was any different than the 20 current opinion I'm relying on, that would change my 21 calculation. 22 Q. Well, I was asking in particular about 23 Mr. Schultz, whose report was attached to your report. 24 Your answer would remain, yes; is that correct? 25 A. My answer is that if I had any different source</p> <p style="text-align: right;">Page 9</p>

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<p>1 that I relied upon for vocational conclusion, it would 2 potentially change my calculations. 3 Q. Yeah, but just try to answer my question. It's 4 not that difficult. Is it correct if you relied upon 5 Mr. Schultz' opinions, your opinions regarding present 6 value of future impairment of earning capacity for 7 Mr. Below would be different? 8 MR. FLYNN: Objection, form. 9 A. Yes. Mr. Schultz' or any other opinion would 10 change the basis on which I formed my calculations and 11 then changed the calculations themselves. 12 MR. ROTTIER: Move to strike everything 13 after the word "yes" as being nonresponsive. 14 Those are all of my questions. Thank you. 15 MR. FLYNN: We will reserve. No further. 16 We will read and sign. 17 THE REPORTER: Do you need a copy, Jared? 18 MR. FLYNN: Yes, I do. 19 THE REPORTER: Do you want it e-mailed 20 only or hard copy, as well? 21 MR. FLYNN: Do you have just a normal -- 22 just the package where we get an e-tran and hard copy? 23 THE REPORTER: Yes. 24 MR. FLYNN: Let's do that package. 25 (Deposition concluded 3:26 p.m.)</p> <p style="text-align: right;">Page 10</p>	<p>1 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WISCONSIN 2 3 JOSHUA J. BELOW) 4 by his Guardian, DEBRA BELOW) CASE NO. 3:15-cv-00529-wmc 5 CHARLIE ELIZABETH BELOW, a) 6 minor by her Guardian ad Litem) 7 DANIEL A. ROTTIER, PATRICK) 8 JOSHUA BELOW, a minor by his) 9 Guardian ad Litem, DANIEL) 10 A. ROTTIER) 11 12 Plaintiffs,) 13 14 DEAN HEALTH PLAN, INC.) 15 16 Involuntary Plaintiff,) 17 18 v.) 19 20 STAR BLUE BELOW-KOPF) 21 22 Intervening Plaintiff,) 23 24 v.) 25 26 YOKOHAMA TIRE CORPORATION,) 27 ABC INSURANCE COMPANY,) 28 YOKOHAMA CORPORATION OF) 29 AMERICA, DEF INSURANCE COMPANY) 30 YOKOHAMA CORPORATION OF NORTH) 31 AMERICA, GHI INSURANCE COMPANY) 32 YOKOHAMA TIRE MANUFACTURING) 33 VIRGINIA, LLC., JKL INSURANCE) 34 COMPANY, YOKOHAMA RUBBER) 35 COMPANY, LTD., NMO INSURANCE) 36 COMPANY,) 37 DEFENDANTS) 38 39 REPORTER'S CERTIFICATION 40 ORAL DEPOSITION OF BRIAN D. PIPER, Ph.D. 41 FEBRUARY 9, 2017 42 I, Rebecca Jones, Certified Shorthand Reporter 43 in and for the State of Texas, hereby certify to the 44 following: 45</p> <p style="text-align: right;">Page 12</p>
<p>1 I, BRIAN D. PIPER, have read the foregoing 2 deposition and hereby affix my signature that same 3 is true and correct, except as noted above. 4 5 _____ 6 BRIAN D. PIPER 7 8 THE STATE OF _____) 9 10 COUNTY OF _____) 11 12 Before me, _____, on this day 13 personally appeared BRIAN D. PIPER, known to me (or 14 proved to me under oath or through _____) 15 (description of identity card or other document)) to 16 be the person whose name is subscribed to the 17 foregoing instrument and acknowledged to me that 18 they executed the same for the purposes and 19 consideration therein expressed. 20 Given under my hand and seal of office this 21 ____ day of _____, _____. 22 23 _____ 24 NOTARY PUBLIC IN AND FOR 25 THE STATE OF _____</p> <p style="text-align: right;">Page 11</p>	<p>1 That the witness, BRIAN D. PIPER, Ph.D., was 2 duly sworn by the officer and that the transcript of the 3 oral deposition is a true record of the testimony given 4 by the witness; 5 6 That the deposition transcript was submitted 7 on _____ to the witness or to the 8 attorney for the witness for examination, signature, and 9 return to me within 20 days; 10 That the amount of time used by each party at 11 the deposition is as follows: 12 13 Daniel Rottier (00 hours:09 minutes) 14 15 That pursuant to information given to the 16 deposition officer at the time said testimony was taken, 17 the following includes counsel for all parties of 18 record: 19 FOR THE PLAINTIFFS (via telephone): 20 MR. DANIEL A. ROTTIER 21 HABUSH HABUSH & ROTTIER, S.C. 22 150 E. Gilman Street, #2000 23 Madison, WI 53703 24 Telephone: 608.255.6663 25 Fax: 608.255.0745 E-mail: rottier@habush.com 26 27 FOR THE DEFENDANTS: 28 29 MR. JARED FLYNN 30 JOHNSON TRENT 31 919 Milam, Suite 1700 32 Houston, Texas 77002 33 Telephone: 713.222.2323 34 Fax: 713.222.2226 35 E-mail: jflynn@johnsontrent.com 36 37 - and - 38 39 MR. JAMES KRIVA (via telephone) 40 KASDORF LEWIS & SWIETLIK 41 One Park Plaza, 11270 42 West Park Place 5th Floor 43 Milwaukee, WI 53224 44 Telephone: 414.577.4000 45 Fax: 414.577.4400 E-mail: jkriva@kasdorf.com</p> <p style="text-align: right;">Page 13</p>

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<div style="display: flex;"> <div style="width: 30px; text-align: right; padding-right: 5px;">1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div style="width: 70%;"> <p>I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of this action.</p> <p>Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.</p> <p>Certified to by me this 9th day of February, 2017.</p> <div style="border-top: 1px solid black; margin-top: 10px; padding-top: 5px;"> Rebecca Jones, CSR Texas CSR #4925 Expiration: 12/31/2018 Firm Registration # 32 Atkinson-Baker, Incorporated 500 N. Brand Boulevard Third Floor Glendale, California 91203-4725 818.551.7300; F 818.551.7330 </div> </div> </div> <p style="text-align: right; margin-top: 20px;">Page 14</p>	
<div style="display: flex;"> <div style="width: 30px; text-align: right; padding-right: 5px;">1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div style="width: 70%;"> <p>FURTHER CERTIFICATION UNDER RULE 203 TRCP</p> <p>The original deposition was/was not returned to the deposition officer on _____ ;</p> <p>If returned, the attached Changes and Signature page(s) contains any changes and the reasons therefor;</p> <p>If returned, the original deposition was delivered to Mr. Daniel A. Rottier, Custodial Attorney;</p> <p>That \$ _____ is the deposition officer's charges to the Plaintiff, for preparing the original deposition transcript and any copies of exhibits;</p> <p>That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.</p> <p>Certified to by me this _____ day of _____, 20____.</p> <div style="border-top: 1px solid black; margin-top: 10px; padding-top: 5px;"> Rebecca Jones, CSR Texas CSR #4925 Expiration: 12/31/2018 Firm Registration # 32 Atkinson-Baker, Incorporated 500 N. Brand Boulevard Third Floor Glendale, California 91203-4725 818.551.7300; F 818.551.7330 </div> </div> </div> <p style="text-align: right; margin-top: 20px;">Page 15</p>	

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Brian Piper, Ph.D.
February 9, 2017

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